



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA FIRST CLASS MAIL

James C. Thomas, III
7509 NW Tiffany Springs Parkway
Suite 300
Kansas City, MO 64152

APR 20 2017

RE: MUR 6920

Dear Mr. Thomas:

The Federal Election Commission ("Commission") is the regulatory agency that administers and enforces the Federal Election Campaign Act of 1971, as amended (the "Act"). Based on a complaint filed by Citizens for Responsibility and Ethics in Washington on February 27, 2015, the Commission found reason to believe that Unknown Respondent violated 52 U.S.C. § 30122 by making a \$1.71 million contribution to Now or Never PAC in the name of American Conservative Union.¹ The Complaint and the Factual and Legal Analysis which formed the basis for the Commission's finding are attached for your information.

The Commission authorized the Office of General Counsel to investigate the source of the contribution. During our investigation, we obtained information indicating that you, acting on your own behalf or on behalf of Government Integrity LLC, may be an Unknown Respondent as to which the Commission made findings. Specifically, we received information indicating that you wired the \$1.71 million contribution to American Conservative Union from an account in the name of Government Integrity LLC for delivery to Now or Never PAC. We are now preparing to make a recommendation to the Commission in connection with that information. Prior to making our recommendation, we offer you an opportunity to provide in writing a response to the Complaint and the Commission's Factual and Legal Analysis. Should you choose to respond, you may also submit any materials including documents or affidavits from persons with relevant knowledge that you believe may be relevant or useful to the Commission's consideration of this matter.

Your submission, if you choose to make one, must be submitted within 15 days of receipt of this letter. You should address any response to the Office of General Counsel, and the response should reference MUR 6920. After 15 days, we will prepare recommendations to the Commission, taking into account any response you submit in making our recommendations. For

¹ A "reason to believe" finding is not a finding that any person violated the Act; rather, it means only that the Commission believes a violation may have occurred. See 52 U.S.C. § 30109(a)(2).

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your information, I have enclosed a brief description of the Commission's preliminary procedures for processing possible violations discovered by the Commission.

This matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.² If you intend to be represented by legal counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Antoinette Fuoto, the attorney handling this matter, at (202) 694-1634. Information is also available on the Commission's website at www.fec.gov.

Sincerely,



Kathleen Guith
Associate General Counsel for Enforcement

Enclosures:
Complaint
Factual and Legal Analysis

² The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

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FEDERAL ELECTION COMMISSION

2015 FEB 27 PM 2:19

In the matter of: 13 PM 2:54

American Conservative Union
Now or Never PAC
James C. Thomas III, Treasurer, Now or Never PAC
Unknown Respondent

RECEIVED

2015 FEB 27 AM 11:51

MUR NO. 6920

SENSITIVE

COMPLAINT

1. Citizens for Responsibility and Ethics in Washington ("CREW") and Anne L. Weismann bring this complaint before the Federal Election Commission ("FEC") seeking an immediate investigation and enforcement action against the American Conservative Union, Now or Never PAC, James C. Thomas III, and an Unknown Respondent for direct and serious violations of the Federal Election Campaign Act ("FECA").

Complainants

2. Complainant CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and to ensuring the integrity of government officials. CREW seeks to empower citizens to have an influential voice in government decisions and in the governmental decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission.

3. In furtherance of its mission, CREW seeks to expose unethical and illegal conduct of those involved in government. One way CREW does this is by educating citizens regarding the integrity of the electoral process and our system of government. Toward this end, CREW monitors the campaign finance activities of those who run for federal office and those who make expenditures to influence federal elections, and publicizes those who violate federal campaign finance laws through its website, press releases, and other methods of distribution. CREW also

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files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance violations and filing complaints with the FEC serve CREW's mission of keeping the public informed about individuals and entities that violate campaign finance laws and deterring future violations of campaign finance law.

4. Complainant Anne L. Weismann is the interim executive director and chief counsel of Citizens for Responsibility and Ethics in Washington, a citizen of the United States, and a registered voter and resident of Maryland. Both as a voter and as part of her responsibilities for CREW, Ms. Weismann is committed to ensuring the integrity of federal elections and the campaign finance requirements of the FECA. To that end, Ms. Weismann reviews campaign finance filings and media reports to determine whether candidates and political committees comply with the requirements of the FECA.

5. When CREW and Ms. Weismann discover a violation of the FECA, they submit complaints against violators pursuant to their rights under the FECA. 52 U.S.C. § 30109(a)(1). CREW and Ms. Weismann rely on the FEC to comply with the FECA when making its enforcement decisions because the FEC is the exclusive civil enforcement authority for violations of the FECA. 52 U.S.C. § 30107(e). CREW and Ms. Weismann are injured if the FEC dismisses their complaints contrary to the FECA.

6. In addition, in order to assess whether an individual, candidate, political committee, or other regulated entity is complying with federal campaign finance law, CREW needs the information contained in receipts and disbursements disclosure reports political committees must file pursuant to the FECA, 52 U.S.C. § 30104(a); 11 C.F.R. § 104.1. CREW is hindered in its programmatic activity when an individual, candidate, political committee, or other regulated entity fails to disclose campaign finance information in reports required by the FECA.

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7. CREW relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated disclosure reports are the only source of information CREW can use to determine if an individual or entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all disclosure reports required by the FECA are properly and timely filed with the FEC. CREW is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements, because it denies CREW information to which it is statutorily entitled.

8. Ms. Weismann also is entitled to receive information contained in disclosure reports required by the FECA, 52 U.S.C. § 30104(a); 11 C.F.R. § 104.1. Ms. Weismann is harmed when an individual, candidate, political committee or other entity fails to report campaign finance activity as required by the FECA. *See FEC v. Akins*, 524 U.S. 11, 19 (1998), *quoting Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976) (political committees must disclose contributors and disbursements to help voters understand who provides which candidates with financial support). Ms. Weismann is further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting her ability to review campaign finance information.

Respondents

9. The American Conservative Union ("ACU") is a tax-exempt organization formed in 1964 and organized under section 501(c)(4) of the Internal Revenue Code.¹

10. Now or Never PAC is an independent-expenditure only committee ("super PAC") formed in 2012.²

11. Mr. Thomas is the treasurer of Now or Never PAC.³

¹ ACU 2012 Initial Form 990, November 14, 2013, at 1 (excerpts attached as Exhibit A).

² Now or Never PAC, **FEC Form 1, Statement of Organization**, February 21, 2012, *available at* <http://documenty.fec.gov/pdf/496/12030744496/12030744496.pdf>.

³ *Id.*

12. Unknown Respondent is the true source of funds ACU transferred to Now or Never PAC.

Factual allegations

13. During the 2012 election cycle, Now or Never PAC's reported spending \$7,760,174 on independent expenditures.⁴

14. Now or Never PAC disclosed receiving \$8,200,500 in contributions during the 2012 election cycle.⁵ The largest contribution the group disclosed to the FEC was from ACU, which Now or Never PAC said contributed \$1,710,000 on October 31, 2012.⁶ Mr. Thomas electronically signed the form, certifying he had examined the report and it was true, correct, and complete to the best of his knowledge and belief.⁷

15. ACU initially filed its 2012 Internal Revenue Service ("IRS") Form 990 tax return in November 2013.⁸ Despite Now or Never PAC's report to the FEC of receiving the \$1.71 million contribution, ACU asserted to the IRS it did not engage in any direct or indirect political campaign activities, and did not disclose making any contribution to Now or Never PAC.⁹

16. In April 2014, ACU's tax preparer provided the organization the results of its independent auditor's report of ACU's finances for 2012.¹⁰ Contrary to ACU's initial tax return, the auditor's report asserted ACU made a \$1.71 million political donation in 2012.¹¹

⁴ Now or Never PAC, Two-Year Summary for 2012, available at <http://fec.gov/finance/disclosure/candidateinfo.shtml>.

⁵ *Id.*

⁶ Now or Never PAC, FEC Form 3X, 2012 Post-Election Report, December 5, 2012, available at <http://docquery.fec.gov/pdf/968/12962832968/12962832968.pdf?navpages=0>.

⁷ *Id.*

⁸ ACU 2012 Initial Form 990, at 1.

⁹ *Id.*, Part IV, Question 3.

¹⁰ Conlon and Associates, American Conservative Union, Financial Statements and Independent Auditor's Report for the Year Ended December 31, 2012, April 9, 2014 (attached as Exhibit B).

¹¹ *Id.* at 6.

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17. A month later, in May 2014, ACU filed an amended 2012 tax return with the IRS.¹² This tax return acknowledged ACU engaged in political campaign activities in 2012, and further disclosed ACU's \$1.71 million contribution to Now or Never PAC.¹³ The funds for this contribution, however, were not from ACU. According to ACU's amended tax return, ACU acted as a conduit for a contribution earmarked to Now or Never PAC.¹⁴

18. IRS regulations permit tax-exempt organizations to accept political contributions and “promptly and directly” transfer those funds to a separate-segregated fund. 26 C.F.R. § 1.527-6(e). The IRS instructions for reporting political contributions characterize such transfers as occurring when a “section 501(c) organization collects political contributions or member dues earmarked for a separate segregated fund, and promptly and directly transfers them to that fund.”¹⁵

19. ACU's tax return designates its contribution to Now or Never PAC as this type of transfer. As ACU explained, the "\$1,710,000 was a political contribution received by the Organization and promptly and directly delivered to a separate political organization."¹⁶ Confirming the designation, in reporting the transfer, ACU filled out "0" in the column for the "[a]mount paid from filing organization's funds," and put "1,710,000" in the column for "[a]mount of political contributions received and promptly and directly delivered to a separate political organization."¹⁷

¹² ACU 2012 Amended Form 990, May 12, 2014 (excerpts attached as Exhibit C).

¹³ *Id.*, Part IV, Question 3 and Schedule C, Part I-C, Line 5.

¹⁴ *Id.*, Schedule C, Part I-C, Line 5(d), (e) and Schedule O.

¹⁵ IRS, 2014 Instructions for Schedule C (Form 990 or 990-EZ), at 3, available at <http://www.irs.gov/pub/irs-pdf/990sc.pdf>.

¹⁶ ACU 2012 Amended Form 990, Schedule O.

¹⁷ *Id.*, Schedule C, Part I-C, Line 5 (d), (c).

20. Even though ACU was not the source of the transferred funds, Now or Never PAC reported ACU as the contributor.¹⁸ ACU has not publicly identified the contributor who provided the \$1.71 million contribution it delivered to Now or Never PAC.

Count I.

21. The FECA and FEC regulations prohibit knowingly permitting one's name to be used to effect a contribution in the name of another person and knowingly helping or assisting any person in making a contribution in the name of another. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

22. ACU admitted in its amended 2012 tax return – filed under penalty of perjury – that it received a \$1.71 million political contribution earmarked for Now or Never PAC, then promptly and directly delivered the contribution to the super PAC. ACU further reported that none of the money transferred to Now or Never PAC came from ACU's funds. As a result, ACU knowingly permitted its name to be used to effect the contribution and knowingly helped the undisclosed donor make the contribution, in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b).

23. Any person who knowingly and willingly violates any provision of the FECA involving the making, receiving, or reporting of any contribution aggregating more than \$25,000 in a calendar year is subject to up to five years in prison and fines. 52 U.S.C. § 30109(d)(1). ACU only disclosed the contribution to Now or Never PAC after an independent audit of its 2012 finances, and its amended 2012 tax return reported ACU simply acted as a conduit for a contribution by an undisclosed donor. As a result, ACU's conduct was knowing and willful, and

¹⁸ Now or Never PAC, FEC Form 3X, 2012 Post-Election Report, December 5, 2012, available at <http://docquery.fec.gov/pdf/968/12962832968/12962832968.pdf>.

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thus subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

Count II

24. The FECA and FEC regulations also prohibit knowingly accepting a contribution made by one person in the name of another. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

25. If Now or Never PAC knowingly accepted a \$1.71 million contribution from ACU made in the name of another, Now or Never PAC violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If Now or Never PAC's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

Count III

26. The FECA and FEC regulations further prohibit making a contribution in the name of another person. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

27. The Unknown Respondent provided to ACU the \$1.71 million it in turn transferred to Now or Never PAC. By making a contribution to Now or Never PAC in the name of ACU, the Unknown Respondent violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If the Unknown Respondent's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

Conclusion

WHEREFORE, Citizens for Responsibility and Ethics in Washington and Anne L. Weismann request that the FEC conduct an investigation into these allegations, declare the respondents to have violated the FECA and applicable FEC regulations, impose sanctions

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appropriate to these violations and take such further action as may be appropriate, including referring this case to the Department of Justice for criminal prosecution.



ON BEHALF OF COMPLAINANTS

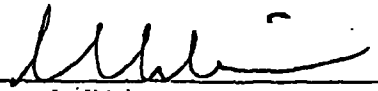
Anne L. Weismann
Interim Executive Director
Citizens for Responsibility and Ethics in
Washington
455 Massachusetts Ave., NW, Sixth Floor
Washington, D.C. 20001
(202) 408-5565 (phone)
(202) 588-5020 (fax)

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Verification


Citizens for Responsibility and Ethics in Washington and Anne L. Weismann hereby
verify that the statements made in the attached Complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.



Anne L. Weismann

Sworn to and subscribed before me this 27th day of February, 2014.



Notary Public



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EXHIBIT A

Return of Organization Exempt From Income Tax

OMB No 1545-0047

2012.

Open to Public Inspection

Department of the Treasury
Internal Revenue Service

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

► The organization may have to use a copy of this return to satisfy state reporting requirements.

A For the 2012 calendar year, or tax year beginning		, 2012, and ending		, 20	
B Check if applicable:	C Name of organization American Conservative Union, Inc.			D Employer identification number	
<input type="checkbox"/> Address change	Doing Business As			52-0810813	
<input type="checkbox"/> Name change	Number and street (or P O box if mail is not delivered to street address)		Room/suite	E Telephone number	
<input type="checkbox"/> Initial return	1331 H Street NW		500	202-347-9388	
<input type="checkbox"/> Terminated	City, town or post office, state, and ZIP code				
<input type="checkbox"/> Amended return	Washington, DC 20005				
<input type="checkbox"/> Application pending	F Name and address of principal officer Al Cardenas, Chairman			G Gross receipts \$ 6,478,581	
	1331 H Street NW, Washington, DC 20005			H(a) Is this a group return for states? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	I Tax-exempt status <input type="checkbox"/> 501(c)(3) <input checked="" type="checkbox"/> 501(c)(4) <input type="checkbox"/> 4947(e)(1) or <input type="checkbox"/> 527			H(b) Are all affiliates included? <input type="checkbox"/> Yes <input type="checkbox"/> No	
	J Website: conservative.org			I(1) "No," attach a list (see instructions)	
	K Form of organization <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other			M(c) Group exemption number	
	L Year of formation 1984		N State of legal domicile DC		

Part I Summary

Activities & Governance	1	Briefly describe the organization's mission or most significant activities: <u>The mission of the Organization is to communicate to and to educate the public about current social, economic, and political issues.</u>		
	2	Check this box <input type="checkbox"/> If the organization discontinued its operations or disposed of more than 25% of its net assets.		
	3	Number of voting members of the governing body (Part VI, line 1a)	3	32
	4	Number of independent voting members of the governing body (Part VI, line 1b)	4	32
	5	Total number of individuals employed in calendar year 2012 (Part V, line 2a)	5	11
	6	Total number of volunteers (estimate if necessary)	6	100
	7a	Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
	b	Net unrelated business taxable income from Form 990-T, line 34	7b	0
Revenue	8	Contributions and grants (Part VIII, line 7)	Prior Year	Current Year
	9	Program service revenue (Part VIII, line 2g)	3,941,867	381,205
	10	Investment income (Part VIII, column (A), lines 3-4; and 7d)	485,984	5,860,820
	11	Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, and 11e)	344,603	
	12	Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	4,772,554	5,478,581
	Expenses	13	Grants and similar amounts paid (Part IX, column (A), lines 1-3)	
14		Benefits paid to or for members (Part IX, column (A), line 4)		
15		Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	525,064	891,539
16a		Professional fundraising fees (Part IX, column (A), line 11e)	109,648	171,456
b		Total fundraising expenses (Part IX, column (D), line 25)	246,673	
17		Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	3,704,685	5,785,232
18		Total expenses. Add lines 13-17 (must equal Part IX, column (A), line 25)	4,339,397	5,858,227
19		Revenue less expenses. Subtract line 18 from line 12	433,157	(379,646)
Net Assets or Fund Balances		20	Total assets (Part X, line 16)	Beginning of Current Year
	21	Total liabilities (Part X, line 26)	1,682,689	865,391
	22	Net assets or fund balances. Subtract line 21 from line 20	1,704,178	566,526
			578,511	198,865

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here	Signature of officer		Date			
	Type or print name and title					
Paid Preparer Use Only	Print/Type preparer's name		Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Thomas R. Conlon CPA		<i>Thomas R. Conlon</i>	11-14-17		P01486002
	Firm's name ▶ Conlon & Associates, LLC				Firm's EIN ▶	
	Firm's address ▶ PO Box 6213, Silver Spring, MD 20916-6213				Phone no	301-598-6851
May the IRS discuss this return with the preparer shown above? (see instructions) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						

For Paperwork Reduction Act Notice, see the separate instructions.

CB: No 11282Y

Form 880 (2012)

10 813

Part III Statement of Program Service AccomplishmentsCheck if Schedule O contains a response to any question in this Part III ☐

- 1 Briefly describe the organization's mission:

The mission of the Organization is to communicate to and to educate the public about current social, economic, and political issues.

- 2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ?
- ☐
- Yes
- ☒
- No

If "Yes," describe these new services on Schedule O.

- 3 Did the organization cease conducting, or make significant changes in how it conducts, any program services?
- ☐
- Yes
- ☒
- No

If "Yes," describe these changes on Schedule O.

- 4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

4a (Code:) (Expenses \$ 5,344,190 including grants of \$) (Revenue \$)

The Organization communicated to and educated the public about current social, economic, and political issues by providing current information throughout the year. The Organization conducted meetings and conferences to enhance awareness of individuals and corporations regarding political issues and to educate federal and state executives and legislative bodies on the need to address these issues.

4b (Code:) (Expenses \$ including grants of \$) (Revenue \$)

4c (Code:) (Expenses \$ including grants of \$) (Revenue \$)

4d Other program services (Describe in Schedule O.)
(Expenses \$ including grants of \$) (Revenue \$)

4e Total program service expenses ► \$5,344,190

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1 Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? If "Yes,"
complete Schedule A

2 Is the organization required to complete Schedule B, Schedule of Contributors (see instructions)?

3 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to
candidates for public office? If "Yes," complete Schedule C, Part I

4 Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h)
election in effect during the tax year? If "Yes," complete Schedule C, Part II

5 Is the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization that receives membership dues,
assessments, or similar amounts as defined in Revenue Procedure 98-19? If "Yes," complete Schedule C,
Part III

6 Did the organization maintain any donor advised funds or any similar funds or accounts for which donors
have the right to provide advice on the distribution or investment of amounts in such funds or accounts? If
"Yes," complete Schedule D, Part I

7 Did the organization receive or hold a conservation easement, including easements to preserve open space,
the environment, historic land areas, or historic structures? If "Yes," complete Schedule D, Part II

8 Did the organization maintain collections of works of art, historical treasures, or other similar assets? If "Yes,"
complete Schedule D, Part III

9 Did the organization report an amount in Part X, line 21, for escrow or custodial account liability; serve as a
custodian for amounts not listed in Part X; or provide credit counseling, debt management, credit repair, or
debt negotiation services? If "Yes," complete Schedule D, Part IV

10 Did the organization, directly or through a related organization, hold assets in temporarily restricted
endowments, permanent endowments, or quasi-endowments? If "Yes," complete Schedule D, Part V

11 If the organization's answer to any of the following questions is "Yes," then complete Schedule D, Parts VI,
VII, VIII, IX, or X as applicable.

a Did the organization report an amount for land, buildings, and equipment in Part X, line 10? If "Yes,"
complete Schedule D, Part VI

b Did the organization report an amount for investments—other securities in Part X, line 12 that is 5% or more
of its total assets reported in Part X, line 16? If "Yes," complete Schedule D, Part VII

c Did the organization report an amount for investments—program related in Part X, line 13 that is 5% or more
of its total assets reported in Part X, line 16? If "Yes," complete Schedule D, Part VIII

d Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets
reported in Part X, line 16? If "Yes," complete Schedule D, Part IX

e Did the organization report an amount for other liabilities in Part X, line 25? If "Yes," complete Schedule D, Part X

f Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses
the organization's liability for uncertain tax positions under FIN 48 (ASC 740)? If "Yes," complete Schedule D, Part X

12 a Did the organization obtain separate, independent audited financial statements for the tax year? If "Yes," complete
Schedule D, Parts XI and XII

b Was the organization included in consolidated, independent audited financial statements for the tax year? If "Yes," and if
the organization answered "No" to line 12a, then completing Schedule D, Parts XI and XII is optional

13 Is the organization a school described in section 170(b)(1)(A)(ii)? If "Yes," complete Schedule E

14 a Did the organization maintain an office, employees, or agents outside of the United States?

b Did the organization have aggregate revenues or expenses of more than \$10,000 from grantmaking,
fundraising, business, investment, and program service activities outside the United States, or aggregate
foreign investments valued at \$100,000 or more? If "Yes," complete Schedule F, Parts I and IV

15 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of grants or assistance to any
organization or entity located outside the United States? If "Yes," complete Schedule F, Parts II and IV

16 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of aggregate grants or assistance
to individuals located outside the United States? If "Yes," complete Schedule F, Parts III and IV

17 Did the organization report a total of more than \$15,000 of expenses for professional fundraising services on
Part IX, column (A), lines 6 and 11e? If "Yes," complete Schedule G, Part I (see instructions)

18 Did the organization report more than \$15,000 total of fundraising event gross income and contributions on
Part VIII, lines 1c and 8a? If "Yes," complete Schedule G, Part II

19 Did the organization report more than \$15,000 of gross income from gaming activities on Part VIII, line 9a?
If "Yes," complete Schedule G, Part III

20 a Did the organization operate one or more hospital facilities? If "Yes," complete Schedule H

b If "Yes" to line 20a, did the organization attach a copy of its audited financial statements to this return?

	Yes	No
1		✓
2	✓	
3		✓
4		
5		✓
6		✓
7		✓
8		✓
9		✓
10		✓
11a	✓	
11b		✓
11c		✓
11d		✓
11e	✓	
11f		✓
12a		✓
12b		✓
13		✓
14a		✓
14b		✓
15		✓
16		✓
17	✓	
18		✓
19		✓
20a		✓
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EXHIBIT B

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AMERICAN CONSERVATIVE UNION, INC.

**Financial Statements
And
Independent Auditor's Report.**

For The Year Ended December 31, 2012

**Conlon and Associates
Certified Public Accountants**

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CONLON AND ASSOCIATES
CERTIFIED PUBLIC ACCOUNTANTS

INDEPENDENT AUDITOR'S REPORT

The Board of Directors
American Conservative Union, Inc.
Washington, D.C.

We have audited the accompanying financial statements of the American Conservative Union, Inc. (Organization), which comprise the statement of financial position as of December 31, 2012, and the related statements of activities, cash flows, and functional expenses for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with U.S. generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the American Conservative Union, Inc. as of December 31, 2012, and the results of its operations and its cash flows for the year then ended, in accordance with U.S. generally accepted accounting principles.

Conlon and Associates

April 9, 2014

SILVER SPRING, MD • TELEPHONE: (301) 598-6851 • FACSIMILE: (301) 598-3738
• Email: conloncpa@msn.com

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AMERICAN CONSERVATIVE UNION, INC.
Statement of Financial Position
As of December 31, 2012

ASSETS

Cash and cash equivalents	\$ 479,682
Prepaid expenses	491,218
Property and equipment (net of accumulated depreciation of \$84,370)	135,686
Rent deposit	26,396
Other assets	<u>22,325</u>

TOTAL ASSETS 1,155,307

LIABILITIES

Accounts payable	41,879
Due to American Conservative Union Foundation, Inc.	140,468
Revenue received in advance	594,216
Other liabilities	<u>217,186</u>

TOTAL LIABILITIES 993,749

NET ASSETS

Unrestricted	<u>161,558</u>
Total net assets	<u>161,558</u>

TOTAL LIABILITIES AND NET ASSETS \$ 1,155,307

The Notes to the Financial Statements are an Integral Part of These Statements

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AMERICAN CONSERVATIVE UNION, INC.
Statement of Activities
For the Year Ended December 31, 2012

REVENUES AND OTHER SUPPORT

Contributions	\$ 8,413,603
Conference fees	1,589,378
Member dues and services	71,900
Management fees	164,828
Other revenue	37,414

TOTAL REVENUES AND OTHER SUPPORT

EXPENSES

Program	8,612,669
Management and general	722,202
Fundraising	<u>1,359,205</u>

TOTAL EXPENSES

CHANGE IN NET ASSETS

NET ASSETS AT BEGINNING OF YEAR:

NET ASSETS AT END OF YEAR

The Notes to the Financial Statements are an Integral Part of These Statements

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AMERICAN CONSERVATIVE UNION, INC.

Statement of Cash Flows

For the Year Ended December 31, 2012

CASH FLOWS FROM OPERATING ACTIVITIES

Change in net assets	\$ (416,953)
Adjustments to reconcile change in net assets to cash provided by operating activities:	
Depreciation	33,978
(Increase) decrease in operating assets:	
Funds in escrow	409,529
Prepaid expenses	(252,366)
Increase (decrease) in operating liabilities:	
Accounts payable and accrued expenses	(46,359)
Due to American Conservative Union Foundation	104,994
Revenue received in advance	(350,092)
Other liabilities	181,028
Net Cash Used by Operating Activities	<u>(336,241)</u>

CASH FLOWS FROM INVESTING ACTIVITIES

Payments for property and equipment	<u>(147,300)</u>
Net Cash Used by Investing Activities	<u>(147,300)</u>

NET CHANGE IN CASH (483,541)

CASH AND CASH EQUIVALENTS AT BEGINNING OF YEAR 963,223

CASH AND CASH EQUIVALENTS AT END OF YEAR \$ 479,682

The Notes to the Financial Statements are an Integral Part of These Statements

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AMERICAN CONSERVATIVE UNION, INC.

Statement of Functional Expenses
For the Year Ended December 31, 2012

Expense Category	Program	Management And General	Fundraising	Total
Advertising	\$ 30,000	\$ 19,423	\$ -	\$ 49,423
Benefits, employee	61,026	7,203	12,707	80,936
Compensation, employee	594,653	70,367	124,167	789,187
Consultants, accounting	-	13,554	-	13,554
Consultants, direct mail	3,366,483	-	1,005,573	4,372,056
Consultants, professional fundraising	-	-	124,872	124,872
Consultants, legal	-	105,881	-	105,881
Consultants, lobbying	54,600	-	-	54,600
Consultants, other	179,831	3,850	27,583	211,264
Depreciation	-	33,978	-	33,978
Information technology	4,304	46,035	-	50,339
Insurance	-	11,380	-	11,380
Interest	-	2,104	-	2,104
Meetings and conferences	2,261,347	279,600	-	2,540,947
Occupancy	116,832	13,791	24,327	154,950
Office	41,605	92,374	-	133,979
Political donations	1,710,000	-	-	1,710,000
Taxes, payroll	40,522	4,783	8,438	53,743
Travel	151,466	17,879	31,538	200,883
Total	\$ 8,612,669	\$ 722,202	\$ 1,359,205	\$ 10,694,076

The Notes to the Financial Statements are an Integral Part of These Statements
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AMERICAN CONSERVATIVE UNION, INC.
Notes To Financial Statements
As of and for the Year Ended December 31, 2012

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization

The American Conservative Union (Organization) was incorporated as a non-stock, nonprofit corporation in the Commonwealth of Virginia in 1964. In 2006, the Organization incorporated in the District of Columbia, under the District of Columbia Nonprofit Corporation Act.

The mission of the Organization is to educate the public about current social, economic, and political issues.

Significant accounting policies are as follows:

Basis of Presentation

Financial statement presentation follows the recommendations of the FASB ASC 958-205 *Presentation of Financial Statements for Not-for-Profit Organizations*. Under FASB ASC 958-205, the Organization is required to report information regarding its financial position and activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets. The Organization did not have any temporarily or permanently restricted net assets at December 31, 2012.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect: (1) the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements; and (2) the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Income Taxes

The Organization is exempt from federal income taxes under section 501(a) of the Internal Revenue Code, as an organization described in section 501(c)(4).

The Organization's income tax returns are subject to review and examination by federal and state authorities. The Organization is not aware of any activities that would jeopardize its tax-exempt status. The Organization is not aware of any activities that are subject to tax on unrelated business income.

AMERICAN CONSERVATIVE UNION, INC.
Notes To Financial Statements
As of and for the Year Ended December 31, 2012

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, CONTINUED

Revenue Recognition

Contributions are recognized when the donor makes a promise to give to the Organization that is, in substance, unconditional. Contributions are considered to be available for unrestricted use unless specifically restricted by the donor. Support that is restricted by the donor is reported as an increase in temporarily restricted net assets, depending on the nature of the restriction and when the restrictions are met. When a restriction expires (that is, when a stipulated time restriction ends or the purpose of the restriction is accomplished), temporarily restricted net assets are reclassified to unrestricted net assets in the Statement of Activities. Revenue received with temporary restrictions that are met in the same reporting period is reported as unrestricted support, and increases unrestricted net assets.

Other types of revenue, such as conference fees, memberships, and management fees are recognized when earned.

Functional Classification of Expenses

The Organization allocates its expenses on a functional basis among program, and management and general, and fundraising, according to their natural expenditure classification.

Related Party Transactions

The Organization is under common control with the American Conservative Union Foundation, Inc. (Foundation). The Foundation is organized exclusively for charitable, religious, education, and/or scientific purposes under Section 501(c)(3) of the Internal Revenue Code. A majority of the total number of voting directors of the Foundation shall at all times be current or former voting members of the Board of Directors of the American Conservative Union, Inc. There is no financial interest between the Organization and the Foundation. However, the Organization received management fees of \$164,828 from the Foundation in 2012.

Cash and Cash Equivalents

The Organization considers all investments with an original maturity of three months or less to be cash equivalents.

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AMERICAN CONSERVATIVE UNION, INC.
Notes To Financial Statements
As of and for the Year Ended December 31, 2012

NOTE 2: PROPERTY AND EQUIPMENT

Cost incurred to purchase office equipment and furnishings are capitalized and depreciated over the estimated useful life, on a straight-line basis.

NOTE 3: DUE TO AMERICAN CONSERVATIVE UNION FOUNDATION, INC.

The Organization, at December 31, 2012 owed \$140,468 to the American Conservative Union Foundation, a related party.

NOTE 4: REVENUE RECEIVED IN ADVANCE

The revenue was received in advance for a conference held in 2013.

NOTE 5: ADVERTISING COSTS

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The Organization incurs advertising costs in order to advocate for its mission. Advertising costs, which totaled \$49,423, are classified \$30,000 as program costs. Other non-program related advertising costs of \$19,423 are classified as management and general costs. All advertising costs are expensed in the year incurred.

NOTE 6: JOINT COSTS RELATING TO PROGRAM AND FUNDRAISING

The Organization conducts direct mail campaigns that are partly a fundraising function and partly provide program education. The costs of \$4,372,056 associated with direct mail processing, printing, and postage, are allocated \$3,366,483 to program and \$1,005,573 to fundraising costs, based on the facts and circumstances of each mailing.

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AMERICAN CONSERVATIVE UNION, INC.
Notes To Financial Statements
As of and for the Year Ended December 31, 2012

NOTE 7: OPERATING LEASE

The Organization is party, as tenant, to a lease commencing December 15, 2011, for a period of five years. The estimated future lease payments for the next five years, which are based on an average annual increase of four percent per year, are as follows. Fifty percent of the first seven months of base rent shall be abated.

<u>Lease Year</u>	
1	\$ 164,708
2	171,297
3	178,149
4	185,275
Aggregate	<u>\$ 699,429</u>

NOTE 8: SUBSEQUENT EVENTS

In preparing these financial statements, the Organization has evaluated events and transactions for potential recognition or disclosure through April 9, 2014, the date the financial statements were available to be issued.

NOTE 9: REPORT RELEASE DATE

Management has performed its final review of the financial statements through April 9, 2014, the date the financial statements were available to be issued.

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EXHIBIT C

Form 990

Return of Organization Exempt From Income Tax

OMB No. 1545-0047

2012

Open to Public Inspection

Department of the Treasury
Internal Revenue Service

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

A For the 2012 calendar year, or tax year beginning 2012, and ending 2012

B Check if applicable:
☐ Address change
☐ Name change
☐ Initial return
☐ Terminated
☒ Amended return
☐ Application pending

C Name of organization American Conservative Union, Inc.
Doing Business As
 Number and street (or P.O. box if mail is not delivered to street address) 1331 H Street NW Room/suite 500
 City, town or post office, state, and ZIP code Washington, DC 20005

D Employer identification number 52-0810813

E Telephone number 202-347-9388

F Name and address of principal officer Al Cardenas, Chairman
1331 H Street NW, Washington, DC 20005

G Gross receipts \$ 10,277,123

H (a) Is this a group return for affiliates? ☐ Yes ☒ No
 (b) Are all affiliates included? ☐ Yes ☒ No
 If "No," attach a list (see instructions)

I Tax-exempt status ☐ 501(c)(2) ☒ 501(c)(3) ☐ (insert no.) ☐ 4947(a)(1) or ☐ 527

J Website: conservative.org

K Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other ☐

L Year of formation 1964 **M** State of legal domicile DC

Part I Summary

Briefly describe the organization's mission or most significant activities: The mission of the Organization is to communicate to and to educate the public about current social, economic, and political issues.

Check this box ☐ if the organization discontinued its operations or disposed of more than 25% of its net assets.

Line	Description	Prior Year	Current Year
3	Number of voting members of the governing body (Part VII, line 1a)	3	33
4	Number of independent voting members of the governing body (Part VII, line 1b)	4	31
5	Total number of individuals employed in calendar year 2012 (Part V, line 2a)	5	13
6	Total number of volunteers (estimate if necessary) (Part V, line 2b)	6	100
7a	Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
7b	Net unrelated business taxable income from Form 990-B, line 34	7b	0
8	Contributions and grants (Part VIII, line 1h)	3,941,967	8,485,503
9	Program service revenue (Part VIII, line 2g)	485,984	1,754,206
10	Investment income (Part VIII, column (A), lines 3, 4, and 7d)	344,603	0
11	Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	0	37,414
12	Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	4,772,554	10,277,123
13	Grants and similar amounts paid (Part IX, column (A), lines 1-3)		
14	Benefits paid to or for members (Part IX, column (A), line 4)		
15	Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	525,064	789,187
16a	Professional fundraising fees (Part IX, column (A), line 11e)	109,648	124,872
16b	Total fundraising expenses (Part IX, column (D), line 25) ▶	1,359,205	
17	Other expenses (Part IX, column (A), lines 11e-11d, 11f-24e)	3,704,685	9,780,017
18	Total expenses. Add lines 13-17 (must equal Part IX, column (A), line 25)	4,339,387	10,694,076
19	Revenue less expenses. Subtract line 18 from line 12	433,157	(416,953)
20	Total assets (Part X, line 16)	1,882,689	1,155,307
21	Total liabilities (Part X, line 26)	1,104,178	993,749
22	Net assets or fund balances. Subtract line 21 from line 20	578,511	161,558

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here Signature of officer Becky Norton Dunlop Date May 12, 2014

Type or print name and title Becky Norton Dunlop, Treasurer

Paid Preparer Use Only Print/preparer's name Thomas R. Conlon CPA Preparer's signature Thomas R. Conlon CPA Date 5-2-14 Check ☐ if self-employed PTIN P01488002

Firm's name Conlon & Associates, LLC Firm's EIN

Firm's address PO Box 6213 Silver Spring, MD 20916-6213 Phone no 301-598-6851

May the IRS discuss this return with the preparer shown above? (see instructions) ☒ Yes ☐ No

For Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 11282Y Form 990 (2012)

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Part III Statement of Program Service AccomplishmentsCheck if Schedule O contains a response to any question in this Part III ☐**1** Briefly describe the organization's mission:

The mission of the Organization is to communicate to and to educate the public about current social, economic, and political issues.

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? ☐ Yes ☒ No

If "Yes," describe these new services on Schedule O

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? ☐ Yes ☒ No

If "Yes," describe these changes on Schedule O.

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.**4a** (Code:) (Expenses \$ 6,351,322 including grants of \$) (Revenue \$)

The Organization communicated to and educated the public about current social, economic, and political issues by providing current information throughout the year.

4b (Code:) (Expenses \$ 2,281,347 including grants of \$) (Revenue \$)

The Organization conducted meetings and conferences to enhance awareness of individuals and corporations regarding political issues and to educate federal and state executives and legislative bodies on the need to address these issues.

4c (Code:) (Expenses \$ including grants of \$) (Revenue \$)**4d** Other program services (Describe in Schedule O.)

(Expenses \$ including grants of \$) (Revenue \$)

4e Total program service expenses **8,612,669**

Part IV Checklist of Required Schedules

	Yes	No
1 Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? If "Yes," complete Schedule A	1	✓
2 Is the organization required to complete Schedule B, Schedule of Contributors (see instructions)?	2	✓
3 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? If "Yes," complete Schedule C, Part I	3	✓
4 Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? If "Yes," complete Schedule C, Part II	4	
5 Is the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization that receives membership dues, assessments, or similar amounts as defined in Revenue Procedure 98-19? If "Yes," complete Schedule C, Part III	5	✓
6 Did the organization maintain any donor advised funds or any similar funds or accounts for which donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts? If "Yes," complete Schedule D, Part I	6	✓
7 Did the organization receive or hold a conservation easement, including easements to preserve open space, the environment, historic land areas, or historic structures? If "Yes," complete Schedule D, Part II	7	✓
8 Did the organization maintain collections of works of art, historical treasures, or other similar assets? If "Yes," complete Schedule D, Part III	8	✓
9 Did the organization report an amount in Part X, line 21, for escrow or custodial account liability; serve as a custodian for amounts not listed in Part X; or provide credit counseling, debt management, credit repair, or debt negotiation services? If "Yes," complete Schedule D, Part IV	9	✓
10 Did the organization, directly or through a related organization, hold assets in temporarily restricted endowments, permanent endowments, or quasi-endowments? If "Yes," complete Schedule D, Part V	10	✓
11 If the organization's answer to any of the following questions is "Yes," then complete Schedule D, Parts VI, VII, VIII, IX, or X as applicable.		
a Did the organization report an amount for land, buildings, and equipment in Part X, line 10? If "Yes," complete Schedule D, Part VI	11a	✓
b Did the organization report an amount for investments—other securities in Part X, line 12 that is 5% or more of its total assets reported in Part X, line 16? If "Yes," complete Schedule D, Part VII	11b	✓
c Did the organization report an amount for investments—program related in Part X, line 13 that is 5% or more of its total assets reported in Part X, line 16? If "Yes," complete Schedule D, Part VIII	11c	✓
d Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets reported in Part X, line 16? If "Yes," complete Schedule D, Part IX	11d	✓
e Did the organization report an amount for other liabilities in Part X, line 25? If "Yes," complete Schedule D, Part X	11e	✓
f Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses the organization's liability for uncertain tax positions under FIN 48 (ASC 740)? If "Yes," complete Schedule D, Part X	11f	✓
12a Did the organization obtain separate, independent audited financial statements for the tax year? If "Yes," complete Schedule D, Parts XI and XII	12a	✓
b Was the organization included in consolidated, independent audited financial statements for the tax year? If "Yes," and if the organization answered "No" to line 12a, then completing Schedule D, Parts XI and XII is optional	12b	✓
13 Is the organization a school described in section 170(b)(1)(A)(ii)? If "Yes," complete Schedule E	13	✓
14a Did the organization maintain an office, employees, or agents outside of the United States?	14a	✓
b Did the organization have aggregate revenues or expenses of more than \$10,000 from grantmaking, fundraising, business, investment, and program service activities outside the United States, or aggregate foreign investments valued at \$100,000 or more? If "Yes," complete Schedule F, Parts I and IV	14b	✓
15 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of grants or assistance to any organization or entity located outside the United States? If "Yes," complete Schedule F, Parts II and IV	15	✓
16 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of aggregate grants or assistance to individuals located outside the United States? If "Yes," complete Schedule F, Parts III and IV	16	✓
17 Did the organization report a total of more than \$15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11c? If "Yes," complete Schedule G, Part I (see instructions)	17	✓
18 Did the organization report more than \$15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? If "Yes," complete Schedule G, Part II	18	✓
19 Did the organization report more than \$15,000 of gross income from gaming activities on Part VIII, line 9a? If "Yes," complete Schedule G, Part III	19	✓
20a Did the organization operate one or more hospital facilities? If "Yes," complete Schedule H	20a	✓
b If "Yes" to line 20a, did the organization attach a copy of its audited financial statements to this return?	20b	

Part IX Statement of Functional Expenses

Section 501(c)(3) and 501(c)(4) organizations must complete all columns. All other organizations must complete column (A).

Check if Schedule O contains a response to any question in this Part IX ☒

Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.

	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to governments and organizations in the United States. See Part IV, line 21				
2 Grants and other assistance to individuals in the United States. See Part IV, line 22				
3 Grants and other assistance to governments, organizations, and individuals outside the United States. See Part IV, lines 15 and 16				
4 Benefits paid to or for members				
5 Compensation of current officers, directors, trustees, and key employees	215,000	161,250	32,250	21,500
6 Compensation not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)				
7 Other salaries and wages	574,187	433,403	38,117	102,667
8 Pension plan accruals and contributions (include section 401(k) and 403(b) employer contributions)				
9 Other employee benefits	80,036	61,026	7,203	12,707
10 Payroll taxes	53,743	40,522	4,783	8,438
11 Fees for services (non-employees):				
a Management				
b Legal	105,881	0	105,881	0
c Accounting	13,554	0	13,554	0
d Lobbying	54,600	54,600	0	0
e Professional fundraising services. See Part IV, line 17	124,872			124,872
f Investment management fees				
g Other. If line 11g amount exceeds 10% of line 25, column (A) amount, list line 11g expenses on Schedule O.	211,264	179,831	3,850	27,583
12 Advertising and promotion	49,423	30,000	19,423	0
13 Office expenses	133,979	41,605	92,374	0
14 Information technology	50,339	4,304	46,035	0
15 Royalties				
16 Occupancy	154,950	116,832	13,791	24,327
17 Travel	200,883	151,466	17,879	31,538
18 Payments of travel or entertainment expenses for any federal, state, or local public officials				
19 Conferences, conventions, and meetings	2,540,847	2,261,347	279,600	0
20 Interest	2,104	0	2,104	0
21 Payments to affiliates				
22 Depreciation, depletion, and amortization	33,978	0	33,978	0
23 Insurance	11,380	0	11,380	0
24 Other expenses. Itemize expenses not covered above (List miscellaneous expenses in line 24e. If line 24e amount exceeds 10% of line 25, column (A) amount, list line 24e expenses on Schedule O.)				
a Political donations	1,710,000	1,710,000	0	0
b Direct mail	4,372,056	3,366,483	0	1,005,573
c				
d				
e All other expenses				
25 Total functional expenses. Add lines 1 through 24e	10,694,076	8,612,669	722,202	1,359,205
26 Joint costs. Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation. Check here <input checked="" type="checkbox"/> if following SOP 98-2 (ASC 958-720)	4,372,056	3,366,483	0	1,005,573

SCHEDULE C
(Form 990 or 990-EZ)

Political Campaign and Lobbying Activities

OMB No. 1545-0047

2012

Open to Public Inspection

Department of the Treasury
Internal Revenue Service

For Organizations Exempt From Income Tax Under section 501(c) and section 527
▶ **Complete if the organization is described below.** ▶ **Attach to Form 990 or Form 990-EZ.**
▶ **See separate instructions.**

If the organization answered "Yes," to Form 990, Part IV, line 3, or Form 990-EZ, Part V, line 46 (Political Campaign Activities), then

- Section 501(c)(3) organizations: Complete Parts I-A and B. Do not complete Part I-C.
- Section 501(c) (other than section 501(c)(3)) organizations: Complete Parts I-A and C below. Do not complete Part I-B.
- Section 527 organizations: Complete Part I-A only.

If the organization answered "Yes," to Form 990, Part IV, line 4, or Form 990-EZ, Part VI, line 47 (Lobbying Activities), then

- Section 501(c)(3) organizations that have filed Form 5768 (election under section 501(h)): Complete Part II-A. Do not complete Part II-B.
- Section 501(c)(3) organizations that have NOT filed Form 5768 (election under section 501(h)): Complete Part II-B. Do not complete Part II-A.

If the organization answered "Yes," to Form 990, Part IV, line 5 (Proxy Tax) or Form 990-EZ, Part V, line 35c (Proxy Tax), then

- Section 501(c)(4), (5), or (6) organizations: Complete Part III.

Name of organization American Conservative Union, Inc. Employer identification number 52-0810813

Part I-A Complete if the organization is exempt under section 501(c) or is a section 527 organization.

- 1 Provide a description of the organization's direct and indirect political campaign activities in Part IV.
- 2 Political expenditures \$ 1,710,000
- 3 Volunteer hours 0

Part I-B Complete if the organization is exempt under section 501(c)(3).

- 1 Enter the amount of any excise tax incurred by the organization under section 4955 \$ 0
- 2 Enter the amount of any excise tax incurred by organization managers under section 4955 \$ 0
- 3 If the organization incurred a section 4955 tax, did it file Form 4720 for this year? ☐ Yes ☒ No
- 4a Was a correction made? ☐ Yes ☒ No
- b If "Yes," describe in Part IV.

Part I-C Complete if the organization is exempt under section 501(c), except section 501(c)(3).

- 1 Enter the amount directly expended by the filing organization for section 527 exempt function activities \$ 0
- 2 Enter the amount of the filing organization's funds contributed to other organizations for section 527 exempt function activities \$ 1,710,000
- 3 Total exempt function expenditures. Add lines 1 and 2. Enter here and on Form 1120-POL, line 17b \$ 1,710,000
- 4 Did the filing organization file Form 1120-POL for this year? ☐ Yes ☒ No
- 5 Enter the names, addresses and employer identification number (EIN) of all section 527 political organizations to which the filing organization made payments. For each organization listed, enter the amount paid from the filing organization's funds. Also enter the amount of political contributions received that were promptly and directly delivered to a separate political organization, such as a separate segregated fund or a political action committee (PAC). If additional space is needed, provide information in Part IV.

(a) Name	(b) Address	(c) EIN	(d) Amount paid from filing organization's funds. If none, enter -0-	(e) Amount of political contributions received and promptly and directly delivered to a separate political organization. If none, enter -0-
(1) Now or Never PAC	4131 N Mulberry Drive, Suite 200 Kansas City, MO 64116	45-4582148	0	1,710,000
(2)				
(3)				
(4)				
(5)				
(6)				

For Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990-EZ.

Cat No 30084S

Schedule C (Form 990 or 990-EZ) 2012

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Part II-A Complete if the organization is exempt under section 501(c)(3) and filed Form 5768 (election under section 501(h)).A Check ☐ If the filing organization belongs to an affiliated group (and list in Part IV each affiliated group member's name, address, EIN, expenses, and share of excess lobbying expenditures).B Check ☐ If the filing organization checked box A and "limited control" provisions apply.

Limits on Lobbying Expenditures (The term "expenditures" means amounts paid or incurred.)		(a) Filing organization's totals	(b) Affiliated group totals												
1a	Total lobbying expenditures to influence public opinion (grass roots lobbying)														
b	Total lobbying expenditures to influence a legislative body (direct lobbying)														
c	Total lobbying expenditures (add lines 1a and 1b)														
d	Other exempt purpose expenditures														
e	Total exempt purpose expenditures (add lines 1c and 1d)														
f	Lobbying nontaxable amount. Enter the amount from the following table in both columns.														
<table border="1"> <thead> <tr> <th>If the amount on line 1e, column (a) or (b) is:</th> <th>The lobbying nontaxable amount is:</th> </tr> </thead> <tbody> <tr> <td>Not over \$500,000</td> <td>20% of the amount on line 1e</td> </tr> <tr> <td>Over \$500,000 but not over \$1,000,000</td> <td>\$100,000 plus 15% of the excess over \$500,000</td> </tr> <tr> <td>Over \$1,000,000 but not over \$1,500,000</td> <td>\$175,000 plus 10% of the excess over \$1,000,000</td> </tr> <tr> <td>Over \$1,500,000 but not over \$17,000,000</td> <td>\$225,000 plus 5% of the excess over \$1,500,000</td> </tr> <tr> <td>Over \$17,000,000</td> <td>\$1,000,000</td> </tr> </tbody> </table>		If the amount on line 1e, column (a) or (b) is:	The lobbying nontaxable amount is:	Not over \$500,000	20% of the amount on line 1e	Over \$500,000 but not over \$1,000,000	\$100,000 plus 15% of the excess over \$500,000	Over \$1,000,000 but not over \$1,500,000	\$175,000 plus 10% of the excess over \$1,000,000	Over \$1,500,000 but not over \$17,000,000	\$225,000 plus 5% of the excess over \$1,500,000	Over \$17,000,000	\$1,000,000		
If the amount on line 1e, column (a) or (b) is:	The lobbying nontaxable amount is:														
Not over \$500,000	20% of the amount on line 1e														
Over \$500,000 but not over \$1,000,000	\$100,000 plus 15% of the excess over \$500,000														
Over \$1,000,000 but not over \$1,500,000	\$175,000 plus 10% of the excess over \$1,000,000														
Over \$1,500,000 but not over \$17,000,000	\$225,000 plus 5% of the excess over \$1,500,000														
Over \$17,000,000	\$1,000,000														
g	Grassroots nontaxable amount (enter 25% of line 1f)														
h	Subtract line 1g from line 1a. If zero or less, enter -0-														
i	Subtract line 1f from line 1c. If zero or less, enter -0-														
j	If there is an amount other than zero on either line 1h or line 1i, did the organization file Form 4720 reporting section 4911 tax for this year?		<input type="checkbox"/> Yes <input type="checkbox"/> No												

4-Year Averaging Period Under Section 501(h)

(Some organizations that made a section 501(h) election do not have to complete all of the five columns below. See the instructions for lines 2a through 2f on page 4.)

Lobbying Expenditures During 4-Year Averaging Period					
Calendar year (or fiscal year beginning in)	(a) 2009	(b) 2010	(c) 2011	(d) 2012	(e) Total
2a	Lobbying nontaxable amount				
b	Lobbying ceiling amount (150% of line 2a, column (e))				
c	Total lobbying expenditures				
d	Grassroots nontaxable amount				
e	Grassroots ceiling amount (150% of line 2d, column (e))				
f	Grassroots lobbying expenditures				

Part I-B Complete if the organization is exempt under section 501(c)(3) and has NOT filed Form 5768 (election under section 501(h)).

For each "Yes," response to lines 1a through 1i below, provide in Part IV a detailed description of the lobbying activity.

	(a)		(b)
	Yes	No	Amount
1 During the year, did the filing organization attempt to influence foreign, national, state or local legislation, including any attempt to influence public opinion on a legislative matter or referendum, through the use of:			
a Volunteers?			
b Paid staff or management (include compensation in expenses reported on lines 1c through 1i)?			
c Media advertisements?			
d Mailings to members, legislators, or the public?			
e Publications, or published or broadcast statements?			
f Grants to other organizations for lobbying purposes?			
g Direct contact with legislators, their staffs, government officials, or a legislative body?			
h Rallies, demonstrations, seminars, conventions, speeches, lectures, or any similar means?			
i Other activities?			
j Total. Add lines 1c through 1i			
2a Did the activities in line 1 cause the organization to be not described in section 501(c)(3)?			
b If "Yes," enter the amount of any tax incurred under section 4912			
c If "Yes," enter the amount of any tax incurred by organization managers under section 4912			
d If the filing organization incurred a section 4912 tax, did it file Form 4720 for this year?			

Part III-A Complete if the organization is exempt under section 501(c)(4), section 501(c)(5), or section 501(c)(6).

	Yes	No
1 Were substantially all (90% or more) dues received nondeductible by members?	1	/
2 Did the organization make only in-house lobbying expenditures of \$2,000 or less?	2	/
3 Did the organization agree to carry over lobbying and political expenditures from the prior year?	3	/

Part III-B Complete if the organization is exempt under section 501(c)(4), section 501(c)(5), or section 501(c)(6) and if either (a) BOTH Part III-A, lines 1 and 2, are answered "No," OR (b) Part III-A, line 3, is answered "Yes."

1 Dues, assessments and similar amounts from members	1
2 Section 182(e) nondeductible lobbying and political expenditures (do not include amounts of political expenses for which the section 527(f) tax was paid).	
a Current year	2a
b Carryover from last year	2b
c Total	2c
3 Aggregate amount reported in section 6033(e)(1)(A) notices of nondeductible section 182(e) dues	3
4 If notices were sent and the amount on line 2c exceeds the amount on line 3, what portion of the excess does the organization agree to carryover to the reasonable estimate of nondeductible lobbying and political expenditure next year?	4
5 Taxable amount of lobbying and political expenditures (see instructions)	5

Part IV Supplemental Information

Complete this part to provide the descriptions required for Part I-A, line 1; Part I-B, line 4; Part I-C, line 5; Part II-A (affiliated group list); Part II-A, line 2; and Part II-B, line 1. Also, complete this part for any additional information.

Part I-A, Line 1: Funds provided to another Organization for Section 527 exempt function activities.

SCHEDULE O
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Name of the organization

American Conservative Union, Inc.

Supplemental Information to Form 990 or 990-EZ

Complete to provide information for responses to specific questions on
Form 990 or 990-EZ or to provide any additional information.

▶ Attach to Form 990 or 990-EZ.

OMB No 1545-0047

2012

Open to Public
Inspection

Employer identification number

52-0810813

Form 990, Page 1, Box B: The Form 990 has been amended to incorporate audit of the financial statements. Schedules C, G, R added.

Form 990 Part VII list of officers, directors, and key employee has been updated. Schedule B list of donors has been updated. Schedule J

has been updated. Schedule O has been revised to clarify explanatory information.

Form 990, Part VI, Section B, Line 11b: The Form 990 and Schedules are prepared by a Certified Public Accountant. It is presented to the

Treasurer, and then the full Board, for review and approval. Upon approval, it is signed by an officer and filed with the IRS.

Form 990, Part VI, Section B, Line 12: Procedures for monitoring the conflict of interest policy are being implemented.

Form 990, Part VI, Section B, Line 15: An executive compensation policy is being implemented. During 2012, executive compensation was

managed via the Organization's budgeting process.

Form 990, Part VI, Section C, Line 18: The Articles of Incorporation are available from the District of Columbia Department of Consumer and

Regulatory Affairs Corporations Division. Financial statements may be available in some states where the Organization is registered to

solicit funds. Other governing documents are not available to the public.

Form 990, Part IX, Line 24a: \$1,710,000 was a political contribution received by the Organization and promptly and directly delivered to a

separate political organization. The specifics are provided in Schedule C.

Form 990, Part IX, Line 24b: Direct mail costs of \$4,372,056 consist of the following: \$4,037,518 (excluding \$124,872 in professional fund-

raising services) paid to the direct mail processing company listed in Schedule G, \$7,416 in separate list rental, \$42,758 in separate

postage, and \$284,364 in separate printing. This total of \$4,372,056 is allocated \$3,366,483 to program cost and \$1,005,573 to fundraising

cost, based on the content of the mailings.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Unknown Respondent

MUR: 6920

I. INTRODUCTION

This matter was generated by a Complaint alleging that an Unknown Respondent made a \$1.71 million contribution to Now or Never PAC in the name of American Conservative Union ("ACU"), in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b).

II. FACTS

Now or Never PAC, an independent expenditure only committee, reported that on October 31, 2012, it received a \$1.71 million contribution from ACU,¹ a 501(c)(4) social welfare organization.² In May 2014, apparently after an independent auditor reviewed its 2012 finances,³ ACU filed an Amended 2012 IRS Form 990 that disclosed the \$1.71 contribution to Now or Never PAC as "a political contribution received by the Organization and promptly and directly delivered to a separate political organization."⁴ The Complaint alleges that Unknown Respondent is the true source of the \$1.71 million contribution made in ACU's name to Now or Never PAC.⁵

¹ Now or Never PAC, 2012 Post-General Report (Dec. 6, 2012) at 6; *see also* Compl. ¶ 14 (Feb. 27, 2015).

² ACU Resp. at 1 (Apr. 23, 2015).

³ Compl. ¶¶ 15-17, Exs. B (Conlon & Associates Independent Auditor's Report, Apr. 9, 2014) and C (ACU Amended Form 990, May 12, 2014).

⁴ Compl Ex. C at Schedule O, Schedule C.

⁵ Compl. ¶¶ 12, 17.

1 **III. LEGAL ANALYSIS**

2 The Act prohibits a person from knowingly permitting his or her name to be used to
3 effect a contribution in the name of another.⁶ The requirement that a contribution be made in the
4 name of its true source promotes Congress's objective of ensuring the complete and accurate
5 disclosure by candidates and committees of the political contributions they receive.⁷ Courts have
6 uniformly rejected the assertion that "only the person who actually transmits funds . . . makes the
7 contribution,"⁸ recognizing that "it is implausible that Congress, in seeking to promote
8 transparency, would have understood the relevant contributor to be [an] intermediary who
9 merely transmitted the campaign gift."⁹ Accordingly, the Act and the Commission's regulations
10 provide that a person who provides funds to another for the purposes of contributing to a
11 candidate or committee "makes" the resulting contribution.¹⁰ If an intermediary merely plays a
12 "ministerial role" in transmitting a contribution, the contribution should not be attributed to the
13 intermediary but instead to the original source.¹¹

14 Based on ACU's representation that the contribution to Now or Never PAC was "a
15 political contribution received by the Organization and promptly and directly delivered to a

⁶ 52 U.S.C. § 30122; *see also* 11 C.F.R. § 110.4(b). The term "person" includes partnerships, corporations, and other organizations. 52 U.S.C. § 30101(11); 11 C.F.R. § 100.10.

⁷ *See, e.g., United States v. O'Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) ("[T]he congressional purpose behind [section 30122] — to ensure the complete and accurate disclosure of the contributors who finance federal elections — is plain.").

⁸ *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

⁹ *O'Donnell*, 608 F.3d at 554.

¹⁰ *See, e.g., Boender*, 649 F.3d at 660 ("[W]e consider the giver to be the source of the gift, not any intermediary who simply conveys the gift from the donor to the donee.").

¹¹ *O'Donnell*, 608 F.3d at 550.

- 1 separate political organization," the Commission finds reason to believe that Unknown
- 2 Respondent violated 52 U.S.C. § 30122.
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